

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: KOKKINEN et al.  
Title: A VEHICULAR SERVER WITH  
WIRELESS INTERFACES FOR  
PROVIDING CONNECTION TO  
LOCAL AND REMOTE  
CONTENT  
Appl. No.: 09/988,995  
Filing Date: 11/21/2001  
Examiner: Hamza, Faruk  
Art Unit: 2155  
Confirmation Number: 9518

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**,  
announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice  
of Appeal.

**REMARKS**

In the Advisory Action dated July 31, 2007 the Examiner indicated that the after-final  
amendment to claims 15, 17, and 27 would be entered. After amending the claims as set  
forth in the after-final amendment, claims 15-24 and 27-34 are now pending in this  
application.

In the May 23, 2007 Final Office Action, the Examiner rejected multiple claims under 35 U.S.C. §112 due to a number of issues relating to antecedent basis.<sup>1</sup> Applicant believes the after-final amendment addresses the Examiner's §112 rejection and therefore requests that the rejection be withdrawn.

Applicant believes that the finality of the May 23, 2007 amendment is improper and respectfully requests that the finality be withdrawn on the grounds that the Examiner has failed to address several arguments made by Applicant with regards to U.S. Patent No. 6,477,152 (Hiatt). In particular, in its March 20, 2007 Amendment and Reply, Applicant discussed in detail why Hiatt fails to teach several features which the Examiner has asserted to be present therein, including the use of a server (not multiple devices) and the use of the same interface to both request and receive information. However, in the May 23, 2007 Office Action, the Examiner essentially repeated his prior rejections with regard to Hiatt, while completely failing to address any of Applicant's arguments concerning Hiatt's failure to teach the above features.

Additionally, while the Examiner has asserted that Applicant's claim amendments necessitated new grounds of rejection, Applicant submits that, in terms of the prior art, the Examiner's use of a new reference (U.S. Patent No. 6,477,152 (Hebert)) was directed entirely to a feature which had already existed in the claims before Applicant's amendments, namely the feature of switching between interfaces if one interface cannot establish a connection. Applicant made absolutely no amendments to the claims in the March 20, 2007 Amendment and Reply that related to this feature. As discussed in this prior Reply, all of Applicant's amendments were intended to clarify features which were missing from Hiatt, not the other cited references. However, and as discussed above, the Examiner has ignored all of Applicant's arguments concerning Hiatt and has repeated his prior rejections (as to Hiatt) without comment. In fact, none of the Examiner's arguments regarding Hebert relate in any way to the text added by Applicant. Because the Examiner's new rejections do not assert that the features described in the amended text is found in Hebert, it is improper to assert that the latest prior art rejections could not have been made in a prior action. As such, any assertion

---

<sup>1</sup> The Examiner identified several antecedent basis issues in claim 1. However, claim 1 was cancelled by Applicant in a previous Amendment and Reply. Applicant is therefore operating under the assumption that the Examiner intended to refer to claim 15, which is the only other independent claim that is still pending in the present application.

that it was Applicant's amendments which necessitated the new rejections based upon the prior art is incorrect.

With regard to the substance of the Examiner's rejections, Applicant reiterates that Hielt is missing multiple elements which the Examiner has asserted are present therein. As discussed at length in the March 20, 2007 Amendment and Reply, Applicant notes that independent claims 15 and 27 both require that a server be used to both attempt to establish a connection with the remote server and permit the local customer terminal to access (i.e., download) content from the remote server. The system in Hielt, however, does not have a single device which both serves as the initial transmission mechanism (the transmission unit) and the device via which the terminal receives the remote content (the receiver). This is made clear in Figure 1 and the specification, where the receiver (col. 3, l. 63-col. 5, l. 20) is discussed as being an entirely separate system than the information request system/transmission unit (col. 5, l. 40-col. 6, l. 50). In other words, Hielt does not teach a single server for performing all of the processes of independent claims 15 and 27, as Hielt does not teach a server for both transmitting and accessing (i.e., receiving) information. In addition, because the embodiments described and shown in Hielt consistently teach using separate devices for these processes, one cannot assert that it would have been obvious for one skilled in the art to go against these clear teachings by combining the devices.

Additionally, when it comes to the information request system sending information and the receiver receiving information in Hielt, Hielt specifically teaches that different interfaces and communication media be used for each process. Throughout the reference, Hielt repeatedly discusses the use of two different communication media—with one for sending information and the other for receiving information. In fact, the Summary of the Invention in Hielt clearly states that “[t]he receiver is coupled to the data source via any appropriate and available medium...and is suitably different from the medium coupling the information request system to the data source.” (emphasis added).<sup>2</sup> Furthermore, given that different media are used, and different devices are used to send and receive information, it is

---

<sup>2</sup> Although Hielt does state at col. 21, ll. 45-48 that the two communication media “may be the same or different media, or separate channels of the same medium,” this is clearly contradicted by the rest of the reference, which clearly teaches away from this feature. Additionally, even if the same **medium were used**, Hielt nevertheless explicitly teaches the receiver having interfaces separate from the information request system. See, e.g., col. 4, ll. 26-42 (for the receiver); col. 6, ll. 23-36 (for the transmission unit).

clear that the receiver and transmission unit use different interfaces in order to send and receive information, which is clearly different from the claims as amended. For example, Figure 7 and col. 4, ll. 26-42 describe the receiver as having its own interface(s), while Figure 8 and col. 6, ll. 23-36 describe the transmission unit as including its own transmission mechanisms (i.e., interfaces). Therefore, regardless of which media are ultimately selected for transmitting and receiving data, the interface for transmitting information is not the same interface that is used for receiving data. It was for purposes of clarifying this difference that Applicant previously amended the independent claims to specifically describe the local customer terminal as using the server to access the remote content via the second interface (or third interface). In other words, regardless of which interface is ultimately used, the same interface is used to both request the information and to receive it. As discussed above, Hiatt specifically teaches away from this feature and, as also discussed above, the Examiner failed to consider or even acknowledge these arguments. Because the above features are neither taught nor suggested by Hiatt, any rejections asserting that these features are present in Hiatt are improper.

With regard to Hebert, Applicant submits that the Examiner has misinterpreted this reference and, even if the suggested combination were appropriate, the combination would still fail to teach all of the features of the pending claims. In particular, Applicant notes that pending claims 15 and 27 specifically describe attempts to establish connections with a remote server via the various interfaces, where an attempt to make a connection via one interface is performed in response to a failure to establish a connection using another interface. This is not what is taught by Hebert. Instead, Hebert is directed specifically to changing connections when an existing connection suffers from a degradation in performance. This is clearly discussed, for example in the Abstract of Hebert, which states:

Upon detecting a degradation in performance of the primary trunked connection that exceeds a threshold, the failover mechanism halts monitoring of the primary trunked connection, configures the second multi-port network interface with the parameters of the primary multi-port network interface, and brings up the second interface. (emphasis added).

This section, and others in Hebert, clearly indicate that Hebert does not teach attempting a new connection when a different connection could not be established in the first place, since the reference only teaches making a handover when an existing connection suffers from degradation. As such, Hebert cannot be interpreted as teaching any attempt to establish one connection in response to a failure to establish a connection using a different interface.

In addition to the above, Applicant also notes that Hebert is simply not related to the technology specifically relied upon by the Examiner in Hiett. Hebert never mentions, much less teaches, the use of a communications system in a vehicle of any sort, nor does it teach, suggest, or hint at wireless communications or interfaces at all. As such, Hebert is directed to an area which completely different from Hiett. As evidence of this fact, Applicant also notes that Hebert is listed as belonging in U.S. Classes 709 and 714, where the classes that were searched during prosecution of Shah et al. were limited to these same classes. In contrast, Hiett is listed as belonging to U.S. Class 370, where during its prosecution, classes 370 and 455 were searched. Therefore, Applicant submits that Hebert and Hiett are directed to entirely different subject matter and, as such, one clearly would not look to the field of Hebert to make the modification suggested by the Examiner without the improper use of hindsight.

For all of the above reasons, Applicant submits that the Examiner's rejections under 35 U.S.C. §103(a) cannot stand. In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date August 23, 2007

By /G. Peter Albert Jr./

FOLEY & LARDNER LLP  
Customer Number: 30542  
Telephone: (858) 847-6735  
Facsimile: (858) 792-6773

G. Peter Albert Jr.  
Attorney for Applicant  
Registration No. 37,268

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 090061-0400	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  On August 23, 2007  Signature  Typed or printed name	Application Number 09/988,995	Filed 11/21/2001	
	First Named Inventor Heikki Kokkinen		
	Art Unit 2155	Examiner Hamza, Faruk	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).          Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> applicant/inventor.   <input type="checkbox"/> assignee of record of the entire interest.            See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)   <input checked="" type="checkbox"/> attorney or agent of record.            Registration number <u>37,268</u>   <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.            Registration number if acting under 37 CFR 1.34 _____         </div> <div style="width: 45%; text-align: center;"> <u>/G. Peter Albert Jr./</u>            Signature   <u>G. Peter Albert Jr.</u>            Typed or Printed Name   <u>(858) 847-6735</u>            Telephone Number   <u>August 23, 2007</u>            Date         </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of 1 forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*